

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATERN, INC.

Plaintiff,

v.

1. THE ALLSTATE CORPORATION
2. ALLSTATE INSURANCE COMPANY
3. ALLSTATE LIFE INSURANCE CO.
4. BAYER CORPORATION
5. BP AMERICA, INC.
6. BUY.COM, INC.
7. CHEVRON CORPORATION
8. CHEVRON U.S.A., INC.
9. CHEVRON PRODUCTS COMPANY
10. CONOCOPHILLIPS COMPANY
11. CONOCOPHILLIPS
12. HALLIBURTON COMPANY
13. HSN, INC.
14. HSN INTERACTIVE LLC
15. JPMORGAN CHASE & CO.
16. JPMORGAN CHASE BANK, N.A.
17. CHASE BANK USA, N.A.
18. WASHINGTON MUTUAL, INC.
19. NATIONWIDE FINANCIAL SERVICES,
INC.
20. NATIONWIDE MUTUAL INSURANCE
COMPANY
21. THE PRUDENTIAL REAL ESTATE
AFFILIATES, INC.
22. THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA
23. PRUDENTIAL FINANCIAL, INC.
24. SUNTRUST BANKS, INC.
25. SUNTRUST BANK

Defendants.

CIVIL ACTION NO. 2:09-cv-178-TJW
JURY TRIAL DEMANDED

STIPULATED DISMISSAL WITH PREJUDICE

The plaintiff, DataTern, Inc. and defendants Nationwide Financial Services, Inc. and Nationwide Mutual Insurance Company, pursuant to Fed. R. Civ. P. 41(a)(2) and (c), hereby move for an order dismissing all claims in this action WITH PREJUDICE and dismissing all counterclaims as MOOT, subject to the terms of that certain agreement entitled "SETTLEMENT AGREEMENT" and dated December 3, 2009, with each party to bear its own costs, expenses and attorneys fees.

Dated: December 31, 2009

Respectfully submitted,

RUSS, AUGUST & KABAT

MORGAN, LEWIS & BOCKIUS LLP

/s/ Andrew W. Spangler

/s/ Rick L. Rambo

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ATTORNEYS FOR PLAINTIFF
DATATERN, INC.

ATTORNEYS FOR DEFENDANTS
NATIONWIDE FINANCIAL SERVICE, INC AND
NATIONWIDE MUTUAL INSURANCE
COMPANY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 31st day of December, 2009. All other counsel not deemed to have consented to service in such manner will be served via facsimile transmission and/or first class mail.

/s/ Andrew W. Spangler

Andrew W. Spangler